

Appl. No. 10/758,280

Remarks/Arguments

The Final Office action mailed May 16, 2006, has been carefully considered. In light of the Examiner's objections and rejections set forth in that action, the Applicants have amended the specification and the claims. Even in light of these amendments, no new matter has been added. It would be appreciated if the Examiner would acknowledge acceptance of these amendments in the next office action.

Drawings

The Examiner objected to the drawings because the elements identified by numbers 66' and 72' in the drawings were not described in the specification. Accordingly, the specification has been amended to include a description of the elements identified by these reference characters. Since these elements were included in the drawings of the original application, no new matter has been added. Thus, withdrawal of this objection is respectfully requested.

Claim Objections

The Examiner has objected to claim 3 because the word "of" should be deleted. Accordingly, the word "of" has been deleted,

Appl. No. 10/758,280

and withdrawal of this objection is respectfully submitted.

Claim Rejections - 35 USC § 112

The Examiner has rejected claim 15 under 35 USC § 112, second paragraph, as being indefinite for having the term "and/or." Accordingly, claim 15 has been amended to omit this language, and thus, withdrawal of this rejection is respectfully requested.

Claim Rejections - 35 USC § 102 - Claims 1-4 and 6-9

The Examiner has rejected claims 1-4 and 6-9 under 35 USC § 102(b) as being anticipated by Kashuba et al. (WO 94/21199). In response to this rejection, the claims, namely claim 1, have been amended to include a limitation directed to a "head moveably mounted on the rod" of a handle. In light of the claim amendments, Kashuba does not recite every claim limitation, for the reasons set forth below. Thus, withdrawal of this rejection is respectfully submitted.

According to the Examiner, Kashuba discloses "an ancillary tool comprising a handle adjacent a distal end of the tool with a head (bottom portion of ref. #22/24), and ... an endpiece (ref. #12) capable of being removably connected to the distal end of the handle." However, unlike the present invention, the bottom

Appl. No. 10/758,280

portion of ref. #22/24 is not moveably mounted. Further, since the bottom portion of ref. #22/24 is part of the unitary structure of a positioning rod 22, the bottom portion is not capable of moving relative to the rod 22. Thus, since Kashuba lacks a teaching of a head that is moveably mounted to a rod, as required by at least claim 1, withdrawal of this rejection is respectfully requested.

Claim Rejections - 35 USC § 102 - Claims 1 and 10-11

The Examiner has rejected claims 1 and 10-11 under 35 USC § 102(b) as being anticipated by Kashuba et al. (WO 94/21199). In response to this rejection, the claims, namely claim 1, have been amended to include a limitation directed to an endpiece "that is adapted to receive the head therein and that defines both an outer surface for engagement with an inner surface of the acetabulum and an opposite inner face for interaction of said endpiece with said head." In light of the claim amendments, Kashuba does not recite every claim limitation, for the reasons set forth below. Thus, withdrawal of this rejection is respectfully submitted.

According to the Examiner, Kashuba discloses "an ancillary tool comprising a handle adjacent a distal end of the tool with a head (ref. #70), and ... an endpiece (ref. #12) capable of being

Appl. No. 10/758,280

removably connected to the distal end of the handle." Further, the "head of the handle comprises a ramp surface to cooperatively engage...the endpiece (inside stepped surface of ref. #70...)." As also pointed out by the Examiner, the specification explains the interaction between the sleeve 70 and inserts 12 and 16 on the last paragraph on page 11. As set forth in the specification:

Sleeve 70 has a stepped bore 76 with a first larger diameter 78 and two smaller diameters 80 and 82 respectively. Bores 78, 80 have diameters complimentary to those of insert 16 so that bore 80 may receive end 46 of insert 16, and bore 78 has a diameter adapted to receive shoulder 44 of insert 12 and an upper part of spring element 19. When sleeve 70 is slid onto rod 22 towards end 26 thereof, corner 84 at the end of bore 78 engages the radially outer surface of spring element 19, thereby deforming the element inwardly and thereby moving flange 40 out of engagement with groove 36 to provide a simple means of releasing the positioning rod insert combination from acetabular cup 14 (*emphasis added*).

As illustrated by the specification, an outer surface of the inserts 12 and 16 interact with bores 78 and 80 on an inner surface of the sleeve 70. In contrast, the present invention utilizes an endpiece having an inner face for interaction with the head. Moreover, when a force is applied to slide the sleeve 70 of the Kashuba patent toward the end 26 of the rod 22, the sleeve 70 is adapted to fit over the inserts 12 and 16 to deform the spring element 19 inwardly. Conversely, as set forth in

Appl. No. 10/758,280

claim 1 of the present application, the endpiece is adapted to *receive the head therein* so that when a first force is applied, the head is urged into engagement with the inner face of the ring to cause an *outward* radial expansion of an elastically deformable ring. Thus, the Kashuba reference does not disclose an endpiece "that is adapted to receive the head therein and that defines both an outer surface for engagement with an inner surface of the acetabulum and an opposite inner face for interaction of said endpiece with said head," as required by the claims.

Not only does the Kashuba patent lack a teaching of every claim limitation, the Kashuba tool is also not capable of exhibiting all of the claim limitations set forth in claim 1 and those claims depending therefrom. Kashuba and the other prior art references disclose endpieces having spring elements that are biased *outwardly* from a handle. As such, the prior art tools use sleeves or other components to deflect the springs inwardly so as to release them from acetabular cups or implants. In contrast, the present invention utilizes an endpiece having elastically deformable ring that is biased *inwardly* relative to handle so that when a first force is applied, a head is urged into the endpiece to cause an outward radial expansion of the ring for wedging the ring into engagement with an inner surface of an acetabulum. Since the prior art tools all have springs that are

Appl. No. 10/758,280

biased outwardly, they all require components that fit over top of the springs to deflect the springs inwardly. Subsequently, the structures of these components do not allow them to be received within an endpiece to cause an outward radial expansion of the springs of the endpiece. Specifically, the structure of the sleeve 70 prevents the sleeve 70 from fitting into the bore 18 of the insert 12. In other words, since the sleeve 70 includes a bore 78 that is large enough to receive the insert 12, the sleeve 70 is too large to be received in the bore 18 of the sleeve 70. Since the prior art tools are not capable of reciting every claim limitation, withdrawal of this rejection is respectfully requested.

Claim Rejections - 35 USC § 103 - Claim 5

The Examiner has rejected claim 5 under 35 USC § 103(a) as being unpatentable over Kashuba et al. (WO 94/21199). According to the Examiner, Kashuba does not disclose a rigid part (ref. #200) that is metallic. However, as discussed above, Kashuba also lacks other claim limitations set forth in the amended claims. Thus, withdrawal of this rejection is likewise requested.

Appl. No. 10/758,280

In view of the foregoing, reconsideration of the claims of this application is respectfully requested and favorable consideration and allowance of the claims solicited. Should the Examiner have any questions regarding this response, the amendments submitted herewith, or the allowability of the claims, it would be appreciated if the Examiner would contact the undersigned attorney of record at the telephone number provided below for purposes of facilitating prosecution of this application and for scheduling an interview, if necessary.

Respectfully submitted,

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By 

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